

APPLICANT:
Phyllis M. Mindurski

REQUEST: A minor variance pursuant to Ordinance 6, § 10.05 of the Harford County Code to permit a sunroom addition to encroach the minimum 35' rear yard setback

HEARING DATE: March 16, 2005

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5473

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Phyllis M. Mindurski

LOCATION: 419 Breslin Road – Joppatowne
Tax Map: 65 / Grid: 4A / Parcel: 707 / Lot: 6
Election District: First (1st)

PRESENT ZONING: R3 / Urban Residential

REQUEST: A minor area variance pursuant to Ordinance 6, § 10.05 of the Harford County Code to permit a sunroom addition to encroach the minimum 35' rear yard setback.

TESTIMONY AND EVIDENCE OF RECORD:

Phyllis M. Mindurski testified that she wished to have constructed a 12' x 12' glass and screen enclosed sunroom to the rear of her house. In order to erect such a sunroom the Applicant is requesting a 5' variance to the required 35' rear yard setback requirement.

Ms. Mindurski believes her property is uniquely configured. The home's garage is actually located to the front of the house, directly off Breslin Road. The living part of the house then forms the long part of the "L" shaped house, of which the garage is the small portion. Accordingly, the sunroom could not practically be built to the front of the house. The front yard setback and the location of the existing driveway also prohibit the construction of the sunroom in that location. The dwelling also is located relatively close to its side lot lines, which also make it impossible to construct the proposed sunroom on either side of the house without a substantial variance. Even with such a variance, there is little available space for such an improvement. The back yard of the subject property is also relatively shallow, particularly compared to other homes in the subdivision. In addition to its shallow nature, the rear yard contains an unusual topographical condition in that its yard slopes very sharply upwards beginning about 15' to 20' back off the rear wall of the dwelling.

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The Applicant stated that other properties in her subdivision have very similar sunrooms. The proposed sunroom is standard in size and configuration to many others both in the neighborhood and throughout the County. She has consulted with her neighbors and none have expressed any opposition to the requested variance.

Terry Hunt, Manager of Patio Enclosure, then testified for the Applicant. Patio Enclosures is the contractor retained to construct the sunroom.

Mr. Hunt stated that there was no other possible location for the proposed sunroom on the subject property due to the way the house is constructed, and the severe constraints which the back yard imposes. The only other way a sunroom could be constructed would be with major structural changes to the house, which the Applicant obviously wishes to avoid. Mr. Hunt stated there were a significant number of other homes in the area which have sunrooms, none of which were required to have variances.

Patio Enclosures has constructed 70 similar types of enclosures in the Joppa zip code area, but rarely have they had to request a variance.

Mr. Hunt believes the lot is unique, particularly because the “L” shape of the house forces the house to the back of the lot, which creates a difficult situation in constructing any addition.

The sunroom proposed is somewhat smaller than Patio Enclosures standard sunroom, but is similar to many others in the County.

Mr. Hunt particularly emphasized a photograph marked as Attachment 10 which shows where the steep slope to the rear of the property begins. He further stated that the location of the home, which sits well to the rear of the subject property, is very unusual compared to others in Harford County.

The Harford County Department of Planning and Zoning recommends that the variance be granted, finding that the property is unique. “The rear portion of the lot slopes up steeply to the rear property line. There is a drainage swale at the base of the hill which collects standing water. The change in elevation is approximately 10 to 15 feet. The existing dwelling is an L-Shaped rancher with the garage in the front, which moves the main portion of the house further back on the lot as compared to other dwellings . . . The property backs up to a wooded open space parcel . . . The reduced setback will not be noticeable, due to the grade difference and the fact that there is open space located to the rear of this lot. The proposal will have no adverse impact on the neighboring properties or the intent of the Code.”

No evidence or testimony was given in opposition.

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APPLICABLE LAW:

§ 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicant desires to construct a standard, in fact somewhat smaller than standard, sunroom attached to her house and extending out into the back of her property. The uncontradicted testimony was, and it is so found, that the proposed sunroom is similar in size and dimensions to many others within her neighborhood, and many others throughout Harford County. The builder of the sunroom testified that his company has constructed many such sunrooms in the area of the subject property, very few of which have required variances.

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The Applicant's ability to construct such a sunroom is highly constrained by the location of her home on her property, and its topography. The home has a garage which is located to its front, on the street side of the dwelling. This design forces the home to be located closer to the rear property line of the property than other types of designs. Unfortunately, this design severely constrains the Applicant's ability to construct an addition to the front of the house, which is the location of the garage, and also to the rear of the house because the house is so close to its rear property line.

Furthermore, the back yard of the property is heavily impacted by a sharp increase in elevation which begins 15' to 20' from the back wall of the house. However, this increase in elevation, with the fact that the subject property adjoins to its rear a wooded open area, would help reduce if not eliminate any potential impact which the granting of the variance would have to any adjoining property owner.

It is accordingly found that the Applicant suffers a hardship due to the unusual shape and configuration of her property in that she is unable to build a sunroom standard in size and design to many others within her neighborhood and Harford County. The relief requested is the minimum necessary to grant the afforded relief. The testimony of the Applicant, and findings of the Department, support a finding that the variance, if granted, would have no adverse impact upon any adjoining property owner or neighbor.

CONCLUSION:

It is accordingly recommended that the requested variance be granted subject to the Applicant obtaining all necessary permits and inspections for the construction of the sunroom.

Date: April 4, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner